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| EXAMINER | |
|---|---|
| NGUYEN, MERILYN P | |
| **ART UNIT** | **PAPER NUMBER** |
| 2163 | |

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/938,163 | MEIRESONNE, MICHAEL | |
| | Examiner | Art Unit | |
| | Merilyn P. Nguyen | 2163 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *19 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 April 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Detailed Action*.

## *DETAILED ACTION*

1. In response to the communication dated 10/19/2005, claims 1-54 are pending in this office action.

2. Application No. 10/421268 filed on April 23, 2003 is a continuation in part of this application.

## *Acknowledges*

3. Receipt is acknowledged of the following items from the Applicant:

- The applicant's amendments have been considered and made of record.

## *Abstract*

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. **It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.** (Emphasis added).

## *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1, 11, 19, 22, 24, 49, 51 and 53 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basic of this rejection is set forth in a two-prong test of:

(1) whether the claim is directed to a judicial exception (law of nature, natural phenomena, or an abstract idea) which would make it non-statutory if it is directed to the exception itself, rather than a practical application of the exception. One way a practical application can be established is through claiming a physical transformation (data transformation is not a physical transformation and is not, in and of itself, evidence of statutory subject matter). In the present case, claimed invention (claims 1, 11, 51 and 53) only recites an abstract idea and does not apply, involve, use or advance the technological arts. The recited limitations only describe the idea of how to identify a supplier of goods or services over the Internet.

(2) Where there is no physical transformation being claimed, a practical application would be established by a useful, concrete and tangible result. That result is useful if it has specific, substantial and credible utility. Make a determination whether such is the case based on the perspective of one of ordinary skill having read the claim in light of the disclosure. It's concrete if it produces an assured, repeatable result (e.g., same input produces the same output each time the steps are performed). For it to be a tangible result, it must be more than just a thought or a computation. Instead, it must have real world value rather than being an abstract result. In the present case, claimed invention (Claims 1, 11, 19, 22, 24, 36, 49, 51 and 53) does not produce tangible result since it recites an abstract idea, which no physical transformation involved.

## *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1, 3, 7, 11, 14, 18, 19, 22, 24, 28, 29, 35, 36, 40, 41, 47, 49, 51, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 4-5, claim 7, line 2, claim 11, lines 6 and 21, claim 18, line 2, claim 19, lines 5, 16 and 27, claim 22, line 4, claim 24, lines 3-4, claim 35, line 2-3, claim 36, lines 3-4, claim 47, line 2-3, claim 49, lines 4 and 8, claim 51, lines 3 and 7, and claim 53, lines 3 and 7, the recitation of "at least partially descriptive" is vague and indefinite because it is not clear what level of description meant within the context of the claim.

Regarding claim 3, line 2, claim 14, line 2, claim 19, line 12, claim 22, line 7, claim 24, line 6, claim 36, line 7, claim 49, line 11, claim 51, line 10, and claim 53, line 10, the recitation of "at least partially corresponding" renders the claims vague and indefinite because it's not clear what "at least partially corresponding" mean within the context of the claim and it does not provide standard for ascertaining the requisite degree.

Regarding claims 28, 29, 40 and 41, the recitation of "at least partially visible" renders the claims vague and indefinite because it does not provide standard for ascertaining the requisite degree.

## *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1-6, 8-17, 24-34, 36-46, and 48-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,662,192), in view of Fenton (US 2002/0194151).

Regarding claims 1 and 11, Rebane discloses a method to identify a supplier of goods or services over the Internet comprising:

providing a home page/index page ("infomediary website", Fig. 17) for a user having at least one link (PDAs link) to a directory Web site (Fig. 18) for a class of goods or services having a directory Web site address ("bizrate.com") at least partially descriptive of the class of goods or services (Fig. 18, rating suppliers giving best PDAs products) wherein said directory Web site contains a supplier link to a corresponding supplier's Web site (See Fig. 18, and col. 32, lines 13-31, wherein ecost.com is a supplier link), wherein the home page and the directory Web sites are configured to allow a user to access the homepage (See col. 32, lines 13-31); select a user determined directory Web site based at least in part on the directory Web site address and activate the user determined directory Web site link corresponding to the directory Web site selected by the user link to the selected directory Web site and select the supplier link for a supplier of the class of goods or services (See page 32, line 57 to page 33, line 67).

Rebane further discloses activate the first user determined supplier link to the corresponding user selected first supplier link, thereby launching a first supplier internet browser

window and displaying the supplier Web site in the first supplier internet browser window and wherein the supplier offers goods or services of the class of goods or services at least partially described by the directory Web site address (See Fig. 20 and corresponding text, wherein the supplier offers goods or services of the class of goods or service based on the rating of the directory web site) as per claim 11.

Rebane does not explicitly teach a rollover window wherein the rollover window conveys information about a supplier corresponding to the supplier link when the user's cursor is placed substantially over the supplier link. On the other hand, Fenton teach a rollover window (See [0109], Fenton et al.). Because Fenton system use to index websites' content, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate a rollover window into the website of Rebane as suggested by Fenton. Fenton teaches rollover display box 838 describing the content item or provide other information to the user about the content item when the user rolls over the content item (See [0109], lines 4-7, Fenton et al.). Although the rollover display box 838 describes information related to multi-media, one having ordinary skill in the art would have recognized that written description in rollover display box can be a description of the supplier's goods or services; therefore, incorporating the rollover display box into the system of Rebane to display information about the supplier's goods or services, thus is well known and intended use. The motivation would have been providing useful information about suppliers to user so that user can decide whether to make further move.

Regarding claims 2 and 13, Rebane/Fenton discloses the directory Web site further comprises a first paragraph of text comprising a description of the class of goods or services ("Home>Computer Harward&Software>PDAs", Fig. 18, Rebane).

Regarding claims 3 and 14, Rebane/Fenton discloses wherein the directory Web site further comprises a descriptive title portion substantially corresponding to the description of the class of goods or services described by the directory Web site domain name (Top BizRater PDA, Fig. 18, Rebane).

Regarding claims 4 and 15, Rebane/Fenton discloses wherein the directory Web site further comprises a link to the home page (home, Fig. 20).

Regarding claims 5, 6, 16, and 17, Rebane/Fenton discloses the directory Web site further comprises a supplier descriptive portion corresponding to the supplier, wherein the supplier descriptive portion is located substantially adjacent the corresponding supplier link (See Fig. 18, "3% rebate" is a supplier descriptive portion of Outpost.com).

Regarding claims 8-10, Rebane/Fenton discloses wherein the rollover window conveys information visually/audibly to the user and utilizes a script (See [0039], [0090], Fenton et al.).

Regarding claim 12, Rebane/Fenton discloses selecting a subsequent user determined supplier link for a subsequent supplier of goods or services; and activating the subsequent user

determined supplier link to the corresponding user selected subsequent supplier Web site thereby launching a second supplier Internet browser window and displaying the subsequent supplier Web site in the second supplier internet browser window (See Fig. 20, Rebane).

Regarding claims 24-25, 36-37 and 48, these claims contain all the claimed subject matter as set forth above in claims 1, 3, and 6, thus rejected as the same.

Regarding claims 26-27, and 38-39, Rebane/Fenton discloses wherein the directory web site comprises a first set of supplier links and a second set of supplier links (See Fig. 20, Rebane).

Regarding claims 28-29, and 40-41, Rebane/Fenton discloses wherein the first rollover window is substantially visible when the first set of supplier links is substantially visible (See [0090], Fenton et al.).

Regarding claims 30, 33-34, 42, and 45-46, Rebane/Fenton discloses wherein the directory Web site comprises a second rollover window (See [0090], [0109], Fenton et al.).

Regarding claims 31-32 and 43-44, Rebane/Fenton discloses a plurality of directory Web sites (See Fig. 18, Rebane), wherein each directory Web site contains at least one link to at least other directory Web site (See Fig. 18 and 20, Rebane).

Regarding claims 49, 51, and 53, these claims contain all the claimed subject matter as set forth above in claims 24, and further discloses access a convention search engine; input a search strategy into the conventional search engine to search for a supplier of a user determined good or service; view ranked result links as analyzed by the conventional search engine's algorithm and displayed by the conventional search engine; and activate a ranked result link corresponding to the directory web site corresponding to the user inputted search strategy

thereby allowing the user to access the directory web site corresponding to the user inputted search strategy. Please see col. 31, line 62 to col. 32, line 12, Rebane.

Regarding claims 50, 52, and 54, Rebane/Fenton discloses wherein the directory Web site further comprises a related directory Web site link (See Figs. 18 and 20, Rebane et al.).

8. Claims 7, 18-23, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,662,192), in view of Fenton (US 2002/0194151), and further in view of Perkes (US 2002/0194601).

Regarding claims 7, 18, 35, and 47, Rebane/Fenton discloses all the claimed subject matter as set forth above, however Rebane/Fenton is silent as to wherein the directory Web site comprises at least one substantially descriptive metatag. On the other hand, Perkes teach descriptive metatag (See [0042], Perkes et al.). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to include descriptive metatag into the directory Web site of Rebane/Fenton. The motivation would have been to cover all possible related searches and increase the ranking archived as suggested by Perkes.

Regarding claim 22, this claim contains all the claimed subject matter as set forth above in claims 1, 3, 6, and 7, thus rejected as the same.

Regarding claims 19-21, this claim contains all the claimed subject matter as set forth above in claims 22 and 49, thus rejected as the same.

Regarding claim 23, Rebane/Fenton/Perkes discloses wherein the rollover window utilizes a script (See [0039], [0090], Fenton et al.).

***Response to Arguments***

9. Applicant's arguments filed on 10/19/2005 with respect to claims 1-54 have been considered but they are not persuasive.

In response to applicant's argument, to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In this case, it would have been obvious to one having ordinary skill in the art to modify the teachings of Rebane patent to include a rollover window as shown in Fenton. Rebane system collects, evaluates, presents data, and generates information relating to electronic commerce such as rating different merchandises suppliers so that the users can compare and decide which supplier would provide best goods or services. Figure 18 shows various ratings of suppliers of goods or services and various links to suppliers' web sites. For example, when user clicks on

"Ecost.com" link of Figure 18, user is directed to that website (Fig. 20). Information about the supplier can be found when the user choose to click on the link "why eCost.com" (Fig. 20). Since the information about the suppliers of Rebane system can be found at each individual supplier's website, therefore, one having ordinary skill in the art would have been modified the teaching of Rebane to include a rollover window as shown in Fenton so that the information about the suppliers can be displayed directly on a rollover window of directory Web site of Fig. 18 of Rebane. Thus, it is obvious to combine the Fenton rollover display box with the Rebane patent. "Test of obviousness is not whether features of secondary reference may be bodily incorporated into primary reference's structure, nor whether claimed invention is expressly suggested in any one or all of references; rather, test is what combined teachings of references would have suggested to those of ordinary skill in art." In re Keller, Terry, and Davies, 208 USPQ 871 (CCPA 1981).

Applicant argues that Rebane does not disclose the amended limitation of a web site where selecting the supplier link for a supplier who offers goods or services of the class of goods or services at least partially described by the directory Web site address or where the supplier's goods or services relate to the class of goods or services. The examiner respectfully point out that this limitation is corresponded to Fig. 20 and corresponding text, wherein the supplier offers goods or services of the class of goods or service based on the rating of the directory web site.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Merilyn P Nguyen whose telephone number is 571-272-4026. The examiner can normally be reached on M-F: 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Merilyn Nguyen
February 1, 2006

FRANTZ GOBY
PRIMARY EXAMINER